

# Property Taxpayers' **BILL OF RIGHTS**

## **1998-99 ANNUAL REPORT**

JOHAN KLEHS  
Hayward  
First District

DEAN F. ANDAL  
Stockton  
Second District

CLAUDE PARRISH  
Torrance  
Third District

JOHN CHIANG  
Los Angeles  
Fourth District

KATHLEEN CONNELL  
Sacramento  
State Controller

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E. L. SORENSEN, JR.  
Sacramento  
Executive Director

 **STATE BOARD OF EQUALIZATION**

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## TAXPAYERS' RIGHTS ADVOCATE OFFICE

California Board of Equalization  
450 N Street, MIC:70  
P.O. Box 942879, Sacramento, CA 94279-0070

FAX: (916) 323-3319

Jennifer L. Willis, *Advocate*  
(916) 324-2798

## PROPERTY TAXES

Bob Reinhard  
(916) 323-2513

## BUSINESS TAXES

Mark S. Walker  
(916) 324-2797

Charlotte Paliani  
(916) 445-0218

Margaret Pennington  
(916) 445-8321

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## *LETTER TO THE EXECUTIVE DIRECTOR*

November 1999

Mr. E. L. Sorensen, Jr.  
Executive Director

Dear Mr. Sorensen:

The Taxpayers' Rights Advocate's Office staff and I are pleased to present the 1998-99 Property Taxpayers' Bill of Rights Annual Report for the Board's and your consideration.

This report highlights the status of last year's Property Taxpayers' Bill of Rights Hearing issues, our accomplishments over the past year, current issues in the process of solution development, and emerging issues we recommend for consideration in the coming year.

In coordination with Property Taxes Department, Legal Division, and the Customer and Taxpayer Services Division, we are recommending several educational strategies, including media, publications, and information for the Board's Internet website. Through information and education, we intend to improve taxpayer understanding and voluntary compliance with the tax laws.

We look forward to continuing to work with staff and the public as we identify and resolve problems to better serve our customers.

Respectfully submitted,

A handwritten signature in cursive script, reading "Jennifer L. Willis".

Jennifer L. Willis  
Taxpayers' Rights Advocate

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## **TAXPAYERS' RIGHTS ADVOCATE'S OFFICE BACKGROUND**

In January 1989, the original Taxpayers' Bill of Rights was established to ensure that the rights, privacy, and property of California taxpayers are adequately protected in the assessment and collection of sales and use taxes. Effective January 1993, the Special Taxes Bill of Rights was established, expanding Bill of Rights statutory authority to the special taxes programs administered by the Board of Equalization (BOE). As the Board accepts responsibility for new special taxes and fee programs, the Bill of Rights protections are added for each program. Since these programs primarily impact business owners, they will be referred to generally as the Business Taxpayers' Bill of Rights, covering both sales and use taxes and the various special taxes and fees.

The Morgan Property Taxpayer's Bill of Rights, effective January 1, 1994, is found in section (§) 5900, et seq., of California's Revenue and Taxation Code (R&TC). It governs the assessment, audit, and collection of property taxes, with the goal to ensure that taxpayers receive fair and uniform treatment under the property taxation laws. It requires the Board to designate a "Property Taxpayers' Advocate" independent of, but not duplicative of, the Board's existing property tax programs, to report directly to the Board's Executive Director. The Property Taxpayers' Advocate is to be specifically responsible for reviewing property tax matters from the viewpoint of the taxpayer, and to review, report on, and recommend to the Board's Executive Director any necessary changes which will help accomplish the Bill of Rights provisions. Appendix A provides an explanation of the differences between the Business and Property Taxpayers' Bills of Rights.

The Taxpayers' Rights Advocate's (TRA) Office facilitates resolution of taxpayer complaints or problems; monitors various Board tax and fee programs and all 58 county property tax programs for compliance with the Taxpayers' Bills of Rights; recommends new procedures or revisions to existing policy to ensure fair and equitable treatment of taxpayers; and participates on various task forces, committees and public forums. The Board holds annual Taxpayer Bill of Rights hearings to solicit the input of the public, assessors, and other local agency representatives.

The TRA Office generally assists taxpayers who have been unable to resolve a matter through normal channels, when they want information regarding procedures relating to a particular set of circumstances, or when there are apparent rights violations in the audit, compliance, or property tax areas. Taxpayers also call just wanting to vent their frustration or needing assurance or confirmation that staff action is lawful and just. In cases where the law, policy, or procedure does not allow any change to the staff action, but a change appears justified, the TRA Office is alerted to a potential area that may need clarification or modification. Several past recommendations for policy or procedural changes and legislative proposals have resulted from these types of contacts with taxpayers.

The TRA Office facilitates communication between taxpayers and Board and county staff to eliminate potential misunderstandings. Taxpayers are provided information on policies and procedures so that they can be better prepared to discuss their issues with staff and effect resolution.



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## STATUS OF LAST YEAR'S ANNUAL HEARING ISSUES

*Last year, annual hearings were held in Culver City and Sacramento. As a result of those hearings, staff addressed issues as follows:*

- **VALUATION OF TIME SHARES:** During the 1998 Property Taxpayers' Bill of Rights hearing in Culver City a taxpayer testified that there were inconsistencies around the State regarding the assessment of time-share interests in real property. He cited the difficulty and expense in applying for reductions in assessed value. He believed that once the assessor had identified a decline in value for one unit, that same value should apply to other over-valued units that are similar as to size, location, and season.

The Property Taxes Department sent a Letter to Assessors, reminding them of issues concerning time-share assessments and the proper procedures for valuing time-share interests in real property.

- **PROPOSITION 218 – “RIGHT TO VOTE ON TAXES ACT”:** Proposition 218, approved by the electorate in the November 1996 General Election, added Articles XIII C and XIII D to the California Constitution. The intent of the authors was to ensure that all taxes, and most other charges on property owners, are subject to voter approval. In addition this initiative Constitutional amendment sought to curb some perceived abuses in the use of assessments and property-related fees — specifically the use of these revenue-raising tools to pay for general governmental services, rather than the property-related services for which they were intended. It imposed new requirements on special assessments and on fees and charges related to property ownership.

During the 1998 Property Taxpayers' Bill of Rights hearing in Culver City two taxpayers had issues concerning the establishment of special districts which, they believed, violated Proposition 218. Both the Legal Division and the Property Taxes Department participated in the response to these taxpayers. However, there continues to be uncertainty concerning the implementation of some of Proposition 218's provisions. We continue to receive calls from taxpayers on property-related fees, assessments, elections, taxes, and debt.

Proposition 218 has inspired litigation and various interpretive opinions. There are some Attorney General opinions, many cases at the Superior Court level (which do not provide binding precedent), and a few appellate decisions. The TRA Office has continued to follow its implementation, and, as local jurisdictions have held the elections required by this measure, we have answered telephone calls from puzzled taxpayers. In the contacts we have received, we notice two areas that repeat — special districts (such as lighting and landscaping districts), and standby charges.



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We will continue to monitor compliance with the Proposition. We intend to stay involved in the implementation process, including:

- Staying current with the special assessment area.
- Providing input into proposed legislation.
- Supporting those efforts that will improve the taxpayers' knowledge about and voice in special property tax assessments.
- **LIFING STUDIES FOR AEROSPACE INDUSTRY:** A taxpayer representative suggested a lifing study be conducted for the aerospace industry.

The Property Taxes Department is currently developing plans for an approach to lifing studies for several industries.



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## ACCOMPLISHMENTS

*The primary function of the Taxpayers' Rights Advocate's Office is to ensure fair and equitable treatment of all taxpayers in the assessment and collection of taxes, and to identify changes in policies, procedures, regulations, and statutes that will enhance taxpayer communication and compliance and improve the relationship between taxpayers and their government. As a result of specific contacts with taxpayers and local government authorities, suggestions are developed and considered. With the cooperation of Board staff, other State agencies, and local county government officials, the following were accomplished this past year.*

- **ASSESSMENT APPEALS:** The Taxpayers' Rights Advocate's Office worked with the Property Taxes Department, Legal Division, County Clerks Association, and others, to revise the Application for Changed Assessment form, BOE-305-AH. Publication 30, "Residential Property Assessment Appeals", was published in April 1998. Both were first used in the appeals process relating to the 1998-99 assessment roll. The revised form and the new publication better inform taxpayers of their rights, the assessment appeals process, and the proper way to complete the form. Counties are distributing Publication 30 to taxpayers planning to file assessment appeal applications and very few calls have been received from taxpayers with questions about the revised form BOE-305-AH.
- **REVIEW OF STATEMENTS AND FORMS:** The Board's Property Taxes Department has included the TRA in the existing processes of form revisions. TRA Office staff joins the Property Taxes Department in advising members of the California Assessors' Association's Forms Subcommittee.
- **TAXPAYER CONTACTS:** We responded to 118 individual property taxpayers, from 60 percent of the counties throughout the state. [Also see "Taxpayers Contacts with TRA Office" on page 10, and Appendices B and C that display the types of contacts received and the counties from which they came.]
- **REVISION EFFORTS:** We participated with the Board's Property Taxes Department as they coordinated various efforts to include industry representatives and assessors in the revisions to various laws, rules, and handbooks.
- **PRESENTATIONS:** We participated in and gave presentations to various assessor association conferences and workshops.
- **MEDIA OUTREACH:** We used media contacts to inform taxpayers of various critical dates and provide them timely information throughout the year.



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## CURRENT ISSUES

*The following issues, identified during last year's hearing and throughout the year, are in the process of being reviewed with program and legal staff, other State agencies, and local government officials, in order to develop solutions.*

- **AMENDMENT OF APPLICATION FOR REDUCED ASSESSMENT:** Our office has been working closely with the Property Taxes Department and other interested parties on revisions to the Property Tax Rules governing hearings by county boards. The Legal Division and Property Taxes Department have taken the lead in coordinating consensus on changes to Rule 305, which would allow corrections to applications that had originally been timely filed.
- **VALUE RESTORATIONS AND PROPOSITION 8 LITIGATION:** With assessed values increasing by more than two percent per year, many taxpayers do not understand the provisions of Propositions 13 and 8 and R&TC § 51(a). Increasing property values, with resultant assessment increases exceeding two percent per year, are inspiring various interpretive opinions of the California Constitution, article XIII A, § 2(b). Several taxpayers have told us they plan further litigation.

With the assistance of Property Taxes and Legal, the TRA Office will continue to develop educational strategies, including media, taxpayer outreach, and information for the Board's website.



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## EMERGING ISSUES

*As a result of taxpayer contacts and review of issues, policies, procedures, and trends, both within the Board and at the local (county) level, the Taxpayers' Rights Advocate's Office recommends consideration of the following opportunity areas.*

- **FILING PERIOD FOR AN APPLICATION FOR REDUCED ASSESSMENT:** Taxpayers receive their tax bills after the deadline to appeal their assessed value has passed for that year. The 75-day period during which a taxpayer can apply for a reduction in assessed value is July 2 to September 15, inclusive. Taxpayers typically do not receive their tax bill until October or early November, too late to appeal their value for that year. This system worked prior to Proposition 13, when assessors were required to notify property owners of increases in the assessed value of their property.

After the passage of Proposition 13 subdivision (f) was added to R&TC § 619. It provided that the assessor did not have to send out a value notice when the only increase was one reflecting the inflation rate for the current year. During the recent period of flat and declining property values this resulted in a situation where many property owners did not receive value notices, because the assessor enrolled the same value as the previous year, or a value adjusted for the inflation rate.

When property taxpayers receive their tax bill in October or November they may realize the assessed value on the roll is greater than the fair market value of their property – but by then it is after September 15<sup>th</sup>, and too late for them to file an appeal. [The assessor is allowed to make a Prop 8 correction, pursuant to R&TC § 4831(b), but the property owner has no right to insist on such a review, or obtain a third-party review from an independent body, such as the county board of equalization.]

**RECOMMENDATION:** We propose the Board sponsor legislation providing a method for taxpayers to apply for equalization after they've received their tax bill. We suggest that R&TC § 1603(b), be amended, to extend the final filing date to December 31<sup>st</sup>.

- **APPEALS BOARD VALUES MAY NOT APPLY TO SUCCEEDING YEAR(S):** Taxpayers need to be better informed about the assessment appeal application process; some are not aware that the value set by the board may affect only the year for which the timely application was filed. Both the revised Application for Changed Assessment form, BOE-305-AH, and "Residential Property Assessment Appeals" (Publication 30) caution the taxpayer to file an application for each year the taxpayer disagrees with the assessor's value, and that a new application may need to be filed, even where the taxpayer has an application pending for a prior year.



Although the revised form and the new publication inform taxpayers of their rights and the need to file for each year where there is a disagreement on the assessed value of their property, there continues to be some problems in this area.

**RECOMMENDATIONS:** We recommend the Board consider solutions allowing changes in a subsequent year where a hearing and final determination are not completed within the assessment year during which the application is filed. This might include proposing legislation to amend R&TC § 1610.8, providing the opportunity for a subsequent hearing when a board is unable to make a value determination within the fiscal year during which the application was filed. Other considerations might include notification requirements to taxpayers, to inform them of their right to appeal the subsequent year value, and enhancing taxpayer education in this area.

- **EXEMPTION FOR DISABLED VETERAN'S RESIDENCE:** The principal residence of a disabled veteran or their unmarried surviving spouse can, under certain circumstances, qualify for a substantial exemption from property taxation — in some cases up to \$150,000. Unfortunately, not everyone is aware of this program, and it is not well publicized. Veterans who qualify may not learn of the program for several years, and it may take some time for the veteran or spouse to get a determination that an injury or disease is service connected. Delays for either reason — ignorance or time to get a determination — will cause a loss of benefits, since the law does not make any provisions for retroactive claims.

**RECOMMENDATION:** We will work with the California Department of Veterans Affairs, veterans' organizations, and (other) state and local agencies, to improve public notice of this program, so those who qualify can timely apply for the exemption. This might include suggesting language for Veterans Affairs letters and Internet websites.

- **IMPLEMENTATION OF SENATE BILL 1105 – CHAPTER 940, STATUTES OF 1997:** In the past, taxpayers have been surprised and did not understand the difference between their current assessed value and their factored base year value. R&TC § 619 was amended by SB 1105, incorporating language developed by the Taxpayers' Rights Advocate's office and proposed by the Board. The new provisions became effective January 1, 1999, and clarify the requirement to notify assesses when there is a change in value, and provide additional reporting requirements on future restorations when the increase is from a Proposition 8 decline-in-value. In late 1998, the TRA Office made use of CORO Fellows loaned from Board Member Klehs' office to conduct a telephone survey regarding the implementation of SB 1105. At that time it appeared that most of the counties surveyed were in the process of implementing the law.

We will continue to look for strategies that we can develop, with the assistance of county and program staff, to inform taxpayers of how assessments are made and the probability of future year increases.



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**RECOMMENDATION:** It is recommended that the Property Taxes Department monitor implementation of R&TC § 619 through the annual survey process.

- **PROPERTY TAXPAYER EDUCATION:** An increasing need for taxpayer education exists. The more information and education provided to taxpayers, the better they are able to understand and voluntarily comply with the laws. Many of the contacts received throughout the year were from lack of knowledge on the part of the taxpayers regarding how the property tax system works.

**RECOMMENDATIONS:** We recommend the Board undertake a variety of actions to increase taxpayer education in the property tax area including:

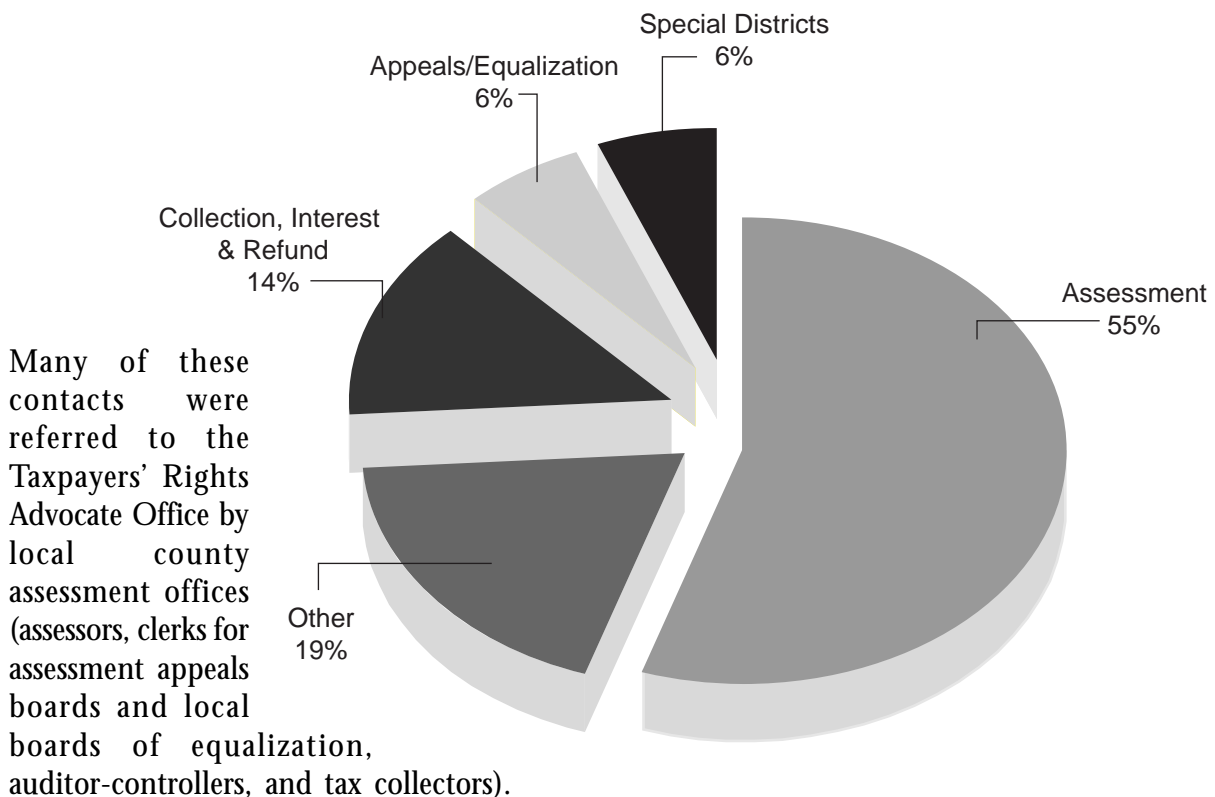
- Add a series of property taxes Frequently Asked Questions (FAQ's) and Answers to the Board's Internet website.
- Add links from the Board's to the Internet websites for the State Controller's Office, California Assessors' Association, Clerks to the Board of Supervisors, Treasurer-Tax Collectors, and Auditors-Controllers.
- Develop an annual Property Tax Publication for taxpayers similar to the Taxpayer Information Bulletin currently in place for Sales and Use Taxpayers. This publication could update taxpayers on current legislative changes, provide frequently asked questions and answers, and generally explain the property tax system. Alternatively, revise Publication 29, California Property Tax, to provide information more suitable for the layperson.



## TAXPAYER CONTACTS WITH TRA'S OFFICE

The Taxpayers' Rights Advocate's Office assisted 118 individual property taxpayers and representatives last year. All contacts with taxpayers and their representatives are important and contribute to better understanding and improvement of the property taxation system. These contacts offer us the opportunity to review a given specific situation — a situation that is sometimes indicative of a more global statewide issue which needs to be addressed through changes in the law, rules, policies, or procedures.

The following chart provides a breakdown of last year's contacts.



These local officials recognize the role of the Taxpayers' Rights Advocate Office in "... the promotion of enhanced understanding regarding the property tax system ..." [The Morgan Property Taxpayers' Bill of Rights, R&TC § 5901(a)]



The following table shows a breakdown of the type of issues we received. Almost 70% of these involved Propositions 13 and 8, assessment, appeals, or Property Taxpayers' Bill of Rights issues. They were handled internally (either by the TRA Office or with the assistance of the Legal Division and Property Taxes Department), and/or were referred to the appropriate county board of supervisors or assessor. Issues involving corrections, cancellations, refunds, etc. – another four percent – were worked with the State Controller's Office and/or referred to the appropriate auditor-controller or tax collector.

General Property Tax Issues .....	6%
Property Tax Assessment & Exemptions .....	27%
Propositions 13 & 8 .....	31%
Appeals & Equalization .....	8%
Timber Tax .....	4%
Levy and Collection of Property Taxes .....	8%
Property Redemption .....	2%
Corrections & Refunds .....	4%
Property Taxpayers' Bill of Rights .....	2%
Senior Citizens' Property Tax Assistance and Postponement .....	8%

We find that sometimes the assessor, tax collector, or auditor-controller's office will refer the taxpayer to the TRA Office so the taxpayer and/or their representative is provided an unbiased independent review of their situation. On a few occasions the person calling was concerned about the fairness of treatment they received from the assessment office(s). The officials in charge of these offices are concerned with taxpayer service, and the potential lack of professional treatment, so they are very anxious to correct perceived inadequacies. When they refer someone to the TRA

Office or when a contact calls directly, the taxpayer will either receive an affirmation of the local policy or procedure, or the local official will receive feedback from us regarding possible improvements in their operations to make them more "taxpayer friendly," or the TRA Office will offer suggestions for the correction or resolution of errors and other problems.

We also receive calls from people who have learned about the TRA Office from the media, a library, or another State agency. They may be concerned about the fairness of the treatment they've received from an assessment office. In addition to working with the person, we contact the office involved in order to help the taxpayer resolve the problem, when possible.

I look forward to discussing this report and these recommendations with you and the Board at the annual hearing in Sacramento on Wednesday, December 8, 1999.



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## APPENDICES

### **A. Differences between Business and Property Taxpayers' Bills of Rights**

A major difference between the Business Taxpayers' Bills of Rights and the Property Taxpayers' Bill of Rights is in the resolution of taxpayer complaints. The Board of Equalization is the agency responsible for assessing and collecting business taxes. The Executive Director has administrative control over the functions, staff, and their actions. The Advocate reports directly to the Executive Director and is separate from the business and property taxes line programs.

When taxpayers' complaints about the Board of Equalization business taxes programs are received in the Advocate's Office, the Advocate and her staff have direct access to all the documents and staff involved in the taxpayers' issues. The Advocate and her staff are liaisons between the taxpayers and the Board program staff to solve the problems. In the area of levies, for example, the Advocate has the ability to stay collection and to order the release of levy and the refund of up to \$1500 upon finding that the levy threatens the health or welfare of the taxpayer or his or her spouse and dependents or family. If the Advocate disagrees with other actions of the staff and is unable to resolve the situation satisfactorily, the issue is elevated to the Executive Director for resolution. The Executive Director then has the authority to overturn the actions of the staff.

However, in responding to property taxpayers' complaints, the Advocate typically has no direct access to the taxpayers' documents. Each of the 58 counties maintains their own records. The Advocate and her staff work with county assessors, tax collectors, and auditor-controllers (most of whom are elected officials), plus clerks to the county boards of supervisors. The Morgan Property Taxpayers' Bill of Rights provides the Advocate with broad oversight, but there is no authority to mandate or overturn local actions. So far, however, the Advocate has been successful in soliciting cooperation and possible change with these local county officials.



## B. Table of Contacts Received, By Type and By Office

	<u>Assessment</u>	<u>Appeals &amp; Equalization</u>	<u>Tax Collection</u>	<u>Interest &amp; Refunds</u>	<u>Special Districts</u>	<u>other</u>	
Alameda	2	1	1		1	1	6
Amador	1						1
Calaveras						1	1
Contra Costa	1						1
Del Norte		1					1
Glenn	1						1
Humboldt	1						1
Kern			1		1		2
Kings		1	1				2
Los Angeles	7	1	3	1		1	13
Madera	1						1
Mariposa	2						2
Mendocino	2						2
Modoc		1				1	2
Napa	3						3
Orange	2	1					3
Placer	2					1	3
Riverside	1					1	2
Sacramento	5						5
San Bernardino	3	1			2		6
San Diego	2		2				4
San Francisco	5						5
San Luis Obispo	2				1		3
San Mateo	4					1	5
Santa Barbara	2						2
Santa Clara	2						2
Santa Cruz			2				2
Shasta			1			1	2
Solano	2						2
Sonoma					1		1
Stanislaus			2				2
Ventura	1				1		2
Yolo	1						1
Yuba	1		1				2
statewide <sup>1</sup>	8					2	10
SBE <sup>2</sup>	1		1			3	5
miscellaneous <sup>3</sup>						10	10
34 counties <sup>4</sup>	65	7	15	1	7	23	118

<sup>1</sup> Contact raised question or issue that went beyond one particular county.  
<sup>2</sup> Property Taxes Department questions included Tax Area Services Section, timber taxes, and welfare exemptions.  
<sup>3</sup> These included issues involving the Franchise Tax Board and the State Controller's Office and questions about the Morgan Property Taxpayers' Bill of Rights.  
<sup>4</sup> No contacts were received that could be identified as being specific to the other 24 counties.



### C. Chart of Contacts Received, By Type and By Office

